

OF

HON. WILL CUMBACK, OF INDIANA,

ON THE

AFFAIRS IN KANSAS.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, MARCH 7, 1856.

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KANSAS AFFAIRS.

In reply to Mr. OLIVER, of Missouri, who had spoken on the Resolution reported from the Committee of Elections in the Kansas Contested-Election case,

Mr. WILL: CUMBACK said:

Mr. SPEAKER: I did not intend, while I am a member of this House, to commit the fashionable folly of making speeches, nor do I rise now for any such purpose; but, sir, I cannot be silent, if that silence is any way construed into acquiescence to the doctrines promulgated by the gentleman from Missouri, [Mr. OLIVER,] who has just taken his seat. That gentleman has recently become a convert to the Democratic party, and everybody knows that new converts in politics or religion are always zealous in the beginning, and hasten to proclaim the opinions of the cause they have espoused.

Mr. OLIVER, of Missouri. Has not the gentleman become recently a convert to the Republican party from the Democratic party?

Mr. CUMBACK. Mr. Speaker, I will answer the gentleman's interrogatory with great pleasure. Sir, when I was connected with the Democratic party, it then held to the same doctrines as to the extension of slavery, to which I now hold, and which I will ever stand by and maintain. The teaching of the Democracy in Indiana, and the doctrine of their platform, before this Nebraska bill was, "conceived in sin and brought forth in iniquity," were, that Congress had the power, and should exercise it, to prevent the introduction of slavery into the free Territories of the country. Sir, I speak advisedly, and from the record. In my own State, but a short time since, the banners of the Democracy were proudly fluttering over all their foes, and on it was inscribed this doctrine:

"Resolved, That the institution of slavery ought not to be introduced into any territory where it does not now exist.

"Resolved, That inasmuch as California and New Mexico are in fact and in law free Territories, IT IS THE DUTY OF CONGRESS TO PREVENT THE INTRODUCTION OF SLAVERY WITHIN THEIR LIMITS."

I refer to this doctrine to show if there is any great amount of "conversion," it is that the so-called Democracy have left this Jeffersonian doctrine, and are now bowing down in shameful obedience to the behest of the slave power. But if this one witness is not sufficient to make out a case of conversion against the Democracy, I offer another to put the matter beyond dispute; for it is said in Holy Writ, by the mouth of "two witnesses all things shall be established."

At the next session of the Legislature of our State after this platform of the Democracy had been adopted, and a splendid victory achieved by the election of the Legislature of the State, by a large majority in favor of the victors, and almost the entire delegation to this body of the same party, the Democratic Legislature became a little suspicious that their representatives in Congress might fall from grace, and abandon the time-honored doctrines of the party. They somehow feared they would lack the nerve to do their whole duty, and that same Democratic Legislature, to strengthen and support them, passed the following resolution, as a kind of "tonic"—in modern phrase to give them backbone in the defense of Democratic principles:

"Be it resolved by the General Assembly of the State of Indiana, That our Senators be instructed, and our Representatives in Congress be requested, so to cast their votes and extend their influence to have ingrafted upon any law that may be passed for the organization of territory

recently acquired from Mexico, A PROVISION FOREVER EXCLUDING FROM SUCH TERRITORY SLAVERY AND INVOLUNTARY SERVITUDE, otherwise than in the punishment for crimes whereof the party has been duly convicted."

Mr. Speaker, I take the principle contained in that resolution—the constitutional power to inhibit the further spread of the blighting curse of slavery—for my instructions, and commend to it my colleagues—each and all of them from my own State. It is sound and healthy doctrine. But to put this matter entirely at rest, I will offer a word or two of corroboration.

But a short time since, our Legislature had a Senator to elect to represent us in the other end of the Capitol, and of course there were several patriotic gentlemen who were willing to make the sacrifice on that occasion. But before the Democracy would commit such an important trust to any member of their party, they appointed a committee to investigate their soundness on the question of slavery extension. Mr. Whitcomb's answer to the interrogatories of the committee was most satisfactory, and they chose him. His answer is as follows:

INDIANAPOLIS, December 9, 1848.

GENTLEMEN: Your letter of this date, in relation to the subject of the extension of slavery into our newly-acquired Territories of New Mexico and California, has been received. I have time to give but a brief reply—one, however, which I trust will be sufficiently intelligible for your purpose.

As stated in my recent message to the Legislature, these Territories have come to us free, by their own laws, from the institution of slavery. *It is incontrovertible that slavery there or elsewhere cannot exist without the sanction of positive law.* I AM OPPOSED TO THE PASSAGE OF ANY SUCH LAW. I BELIEVE THAT CONGRESS CAN CONSTITUTIONALLY PASS SUCH ORGANIC LAWS FOR THE GOVERNMENT OF THE TERRITORY AS WILL, IN THEIR OPERATION, PREVENT THE TERRITORIAL LEGISLATURE FROM PASSING ANY SUCH LAW. IT FOLLOWS THAT CONGRESS CAN, IN MY JUDGMENT, PREVENT THE INTRODUCTION OF SLAVERY INTO THOSE TERRITORIES.

In relation to your second question, I will add that, still regarding slavery as I did nearly twenty years ago, in a report I made in the Legislature of this State, as a drawback upon the prosperity of any country, I would, if a member, use my influence, and vote for the passage by Congress of a law of the kind referred to: that is to say, A LAW WHICH WILL OPERATE EFFECTUALLY TO PREVENT THE INTRODUCTION OF SLAVERY INTO THESE TERRITORIES.

I am, very respectfully, your obedient servant,

JAMES WHITCOMB.

Messrs. J. P. MILLIKEN, and others.

We propose, in Indiana, to see to it that men are still sound as the Senator then chosen by the Democracy, before we make Separators of them; and if they, like he, prove to be right on this question, we propose, like the Democracy did then, to give them commissions; and if their knees become feeble, and their spines weak, we will then point them to the instructions upon the

Journal of our Legislature, to which I have referred, to give them "aid and comfort."

But, sir, I presume this will be sufficient, so far as the Democracy of my own State is concerned. I might read a few chapters from Ohio, from New Hampshire, from Michigan, from Pennsylvania, and, indeed, from all the northern States; but I am not desirous of going into that now, and would not have said one word on the subject, but for the question propounded by the honorable gentleman, [Mr. OLIVER,] to whom I rose to reply. He, sir, is a new convert to Democracy—or rather, to the galvanized article now attempting to pass itself off as such; and let me say to him this word of advice now, that he will find that they "play upon a harp of a thousand strings;" but the "just men made perfect" will be remarkable for their scarcity.

Mr. Speaker, it has been the practice of every Democratic speaker who refers to the scenes of bloodshed, violence, and fraud in the Territory of Kansas, to lay them all upon the head of the emigrant aid society, as a kind of scape-goat to carry off all the sins of the invaders of that Territory and of this imbecile Administration, in not protecting the people of that Territory in their rights. What was this society organized for? The great sin, in the opinion of the gentleman from Missouri, was that it intended to use its efforts to make Kansas a free State. Ah! sir, I recollect well in my own State—I can almost hear now the echo from hill-top to vale—the eloquent appeals made to the people of my State and district by the orators of the Democratic party, that the repeal of the Missouri compromise would not only tend to make Kansas and Nebraska free States, but that slavery could not exist now south of the line of 36° 30', and that the result would be, that not only these Territories would be made into free States, but that a cordon of free States would be established in the future to the Pacific ocean. That was the doctrine there; and I have no doubt that there are northern Democrats here now, who owe their seats to that position assumed at home; yet, it is a great sin, say that same party now, for men to go to Kansas to make it a free State. I never had any intention to go to Kansas until I saw the condition of things there, and the efforts to force slavery upon its people by means of fraud and violence, and no assistance rendered by this Administration, calling itself Democratic. I then felt like going there to help make it a free State.

Mr. MILLER, of Indiana. Will the gentleman allow me a word?

Mr. CUMBACK. I cannot now. I will,

when I get through, allow my colleague to ask me any question that may please him. He will please excuse me now.

I ask the gentleman from Missouri how often, and how many at a time of the people from the northern States, are to go to Kansas to become citizens? Has it come to this, that Missouri must be consulted on this point? Has it come to this, that when a few men go together to settle in Kansas, to find a home for themselves and their children, that because they are northern men, and love freedom better than slavery, and will so vote, that that is to be considered as warring against the rights of Missouri, and justify a descent upon the rights of these men? If that doctrine is to be established as the correct one, if I were to go to Kansas holding the opinions which I do in regard to the extension of slavery—and I certainly would not leave them behind me—I would be warring against Missouri! Sir, if this is the doctrine, and I were in that Territory a citizen, and my right to vote was questioned by outsiders, there would be war between me and the invader of my rights at once. I pray gentlemen to tell us what rights the Missourians have in Kansas until they become actual settlers in the Territory? We were told that the PEOPLE were to be left perfectly free to form their own institutions in their own way, and that it was an outrage upon their rights to prohibit slavery there by law; yet it seems that outsiders, in the face of this Administration, have been left perfectly free to override all the rights of the citizens there, and no protection is afforded them. But I wholly deny that men of the North have gone to Kansas for the purpose of simply controlling the institutions of that Territory, intending, as soon as it was made a free State, to return. Some of them may have returned; but in going there, they all had an intention of becoming citizens of the Territory and actual residents. They wished, it is true, to make the Territory a free State. By the legislation of our fathers, that Territory was guaranteed to freedom forever, and we intend that it shall be "forever" free.

Mr. PHELPS. I appeal to the gentleman, as he has asked me a question, to let me make a reply.

Mr. CUMBACK. I cannot yield now.

Mr. PHELPS. Do not ask me questions, then, if you do not intend to give me an opportunity to reply.

Mr. CUMBACK. You may have the whole session to reply when I am done. The doctrine of the Democratic party, as I said a while ago, was once resistance to slavery agitation. James

K. Polk, in speaking of this very same Missouri compromise, does not stigmatize it, as does my friend from Missouri, [Mr. OLIVER,] and other Democrats, as an "odious measure." He said that it was a great act of conciliation; that its authors were hailed as public benefactors. That was the Democracy speaking through James K. Polk, while President of the United States, and supported by this party. Its authors were hailed as great "benefactors;" and when we succeed in restoring that compromise, and guarantying free institutions in Kansas and Nebraska to our children and our children's children forever, then we shall be hailed as "public benefactors."

Mr. RICHARDSON. Where in James K. Polk's writings does the gentleman find the expression which he uses?

Mr. CUMBACK. I decline to be interrupted now.

Mr. RICHARDSON. I think you cannot; you do not know.

Mr. CUMBACK. We will see who knows. Here it is in Polk's special message, on the 14th of August, 1848, on the Oregon question:

"In December, 1819, application was made to Congress by the people of Missouri Territory for admission into the Union as a State. The discussion upon the subject in Congress involved the question of slavery, and was prosecuted with such violence as to produce excitements alarming to every patriot in the Union. BUT THE GOOD GENIUS OF CONCILIATION, WHICH PRESIDED AT THE BIRTH OF OUR INSTITUTIONS, FINALLY PREVAILED, AND THE MISSOURI COMPROMISE WAS ADOPTED. The eighth section of the act of Congress of the 6th of March, 1820, 'to authorize the people of the Territory of Missouri to form a constitution and State government,' &c., provides:

"That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30' north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crime, whereof the party shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided always*, That any person escaping into the same from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

"This compromise had the effect of calming the troubled waves, and restoring peace and good-will throughout the States of the Union. The Missouri question had excited intense agitation of the public mind, and threatened to divide the country into geographical parties, alienating the feelings of attachment which each portion of the Union should bear to every other. The compromise allayed the excitement, tranquilized the popular mind, and restored confidence and fraternal feelings. ITS AUTHORS WERE HAILED AS PUBLIC BENEFACTORS!"

Mr. Speaker, we propose to tranquilize the public mind—to put a quietus on the outrages in Kansas by restoring the prohibition of slavery in that Territory; and, sir, I have no fears but that posterity will pronounce upon our act the same benediction as is here pronounced upon its original

enactors by Mr. Polk. Gentlemen may talk about a dissolution of the Union, if that is attempted, as long and as loud as they choose. I read from this same message of Mr. Polk, on that point, and let gentlemen who professed to be Democrats then and now, to ask themselves who are the disunionists. It will be remembered that when Texas was admitted into the Union, the compromise was applied to all the territory of Texas north of that line. Mr. Polk, in speaking of the compromise and the admission of Texas, says:

"Ought we now to disturb the Texas and Missouri compromises? Ought we at this late day, in attempting to annul what has been so long established and acquiesced in, to excite sectional jealousies and divisions, to alienate the people of different portions of the Union from each other, AND TO ENDANGER THE EXISTENCE OF THE UNION ITSELF?"

Let gentlemen answer, who are the enemies of the Union. We are told by the gentleman from Missouri that the Missouri compromise was an odious measure, forced upon the South against their will by votes from the North. I ask the gentleman to look a little more cautiously to the history of the legislation of 1820, before he makes such wild assertions. I ask him to look at the votes of northern and southern men at its enactment. I hold in my hand a letter from a distinguished gentleman from the South, which was written at the time the Missouri compromise was passed:

"CONGRESS HALL, March 2, 1820,
Three o'clock at night.

"DEAR SIR: I hasten to inform you that this moment we have carried the question to admit Missouri and all Louisiana to the southward free, from the restriction of slavery, and give the South an addition of six and perhaps eight members to the Senate of the United States. IT IS CONSIDERED HERE, BY THE SLAVEHOLDING STATES, AS A GREAT TRIUMPH."

The enactment of the Missouri compromise, at the time when it gave Missouri, a slave State, into the Union, and when it gave that territory south, also free from restriction, was a great triumph. But, sir, when the other side of the contract is about to be carried out, it suddenly becomes a very "odious measure." But Mr. Pinckney goes on in this same letter, and says:

"The votes were close—ninety to eighty-six, (the vote was so first declared)—produced by the seceding of a few absent and moderate men from the North. To the north of 36° 30', there is to be, by the present law, restriction, which you will see by the votes, I voted against. But it is at present of no moment. It is a vast tract, uninhabited, only by wild beasts and savages, in which not a foot of the Indian claim to the soil is extinguished, in which, according to the ideas prevalent, no land office will be open for a great length of time.

"With respect, your obedient servant,

"CHARLES PINCKNEY."

But, by-and-by, in the course of events, that territory has become open for settlement, and States are to be made out of it, and then the institution

of slavery, like the fabled dog of old, which never sleeps, puts its eye upon it, and now it becomes a great sin for a freeman to go into Kansas for the purpose of making it a free State. The gentleman from Missouri tells us that the ruling principle which prompted men to go to Kansas, was freedom for the African. Well, sir, I confess, in my own heart, I have some sympathy with the African, bound and enslaved as he is, and sold in the market, often from his own wife and children, but I have more for the white man. Slavery is a curse to the white man as well as to the slave. But with slavery in Missouri I have nothing to do. I do not wish to interfere with it there. You are responsible for it there. But, in Kansas, I have something to do, and I will therefore interfere. The men who went there desired to make Indianas and Ohios of the Territories of Kansas and Nebraska. Their object was to guaranty to their children and their children's children the blessings of free labor and free institutions. They wanted to transmit to their children the same rights which our patriotic fathers transmitted to us in the north-west, by the ordinance of 1787. Ay, this doctrine is sectional now. Why? South Carolina, Massachusetts, New York, and Virginia will not now stand upon the same platform that they did then. That was in the better days of the Republic. That was when Jefferson, and such men, legislated for the country. If it has become sectional, who made it so? It has not been made so by our leaving the doctrines of our fathers. You have seceded from it and claim to be wiser than they.

But the gentleman from Missouri closes his argument by asking this question: "Who will vote for this investigation?" Let me rather ask him, *who will vote against it?* Rather let me ask where is the man who will stand up in this Hall and say he will not vote for a full and free investigation of all the facts connected with this Kansas matter? For my own part, I say I will vote for it. I want all the facts of this case developed, that the country may see who is wrong and who is right. *Truth never shrinks from investigation.*

Mr. Speaker, I did not intend, at this time, to say as much as I have said. I rose merely to correct some statements made by my friend from Missouri, [Mr. OLIVER,] who has just spoken in reference to the original enactment of the Missouri compromise, and to ask that gentleman what right—if the proceedings in Kansas were even irregular—had Missouri to interfere? Who made Missouri the protector of Kansas, and the power to be consulted as how often and how many men shall emigrate to Kansas to secure free insti-

tutions to that Territory? If those persons went to Kansas, and voted irregularly and without rights, which I wholly deny, it was the duty of the government of Kansas to punish any irregularities committed by these men. That was not the duty of Missouri, any more than it was the duty of Indiana. The legislation of the Territory of Kansas is not in any way connected with the legislation of Missouri.

But if that Legislature which made the law under which General Whitfield was elected, was elected by residents of the State of Missouri, was the spawn of fraud and violence, let us remove the veil and show the country the origin from which emanated this law. Let the country know how it was that a body of men was chosen who have enacted a code more bloody than the laws of Draco—more at war with the rights of men—than ever emanated from the throne of the most absolute despotism; more disgraceful to our republican Government than anything that has occurred since its formation. Who will vote to refuse inquiry into these things? We will see.

The following are specimens of the legislation of the Territory of Kansas:

Kansas Slave Code.

AN ACT to punish offenses against slave property.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, That every person, bond or free, who shall be convicted of actually raising a rebellion or insurrection of slaves, free negroes, or mulattoes, in this Territory, shall suffer death.

Sec. 11. If any person print, write, introduce into, or publish or circulate, or cause to be brought into, printed, written, published, or circulated, or shall knowingly aid or assist in bringing into, printing, publishing, or circulating within this Territory, any book, paper, pamphlet, magazine, handbill, or circular, containing any statements, arguments, opinion, sentiment, doctrine, advice, or innuendo, calculated to produce a disorderly, dangerous, or rebellious disaffection among the slaves in this Territory, or to induce such slaves to escape from the service of their masters, or to resist their authority, shall be guilty of a felony, and be punished by imprisonment at hard labor for a term not less than five years.

Sec. 12. If any free person, by speaking or writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated in this Territory any book, paper, magazine, pamphlet, or circular containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term not less than two years.

Sec. 13. No person who is conscientiously opposed to holding slaves, or who does not admit the right to hold slaves in this Territory, shall sit as a juror on the trial of any prosecution for any violation of any of the sections of this act.

This act to take effect and be in force from and after the 5th day of September. A. D. 1855.

J. H. STRINGFELLOW,
Speaker of the House.

Attest: J. M. LYLE, Clerk.

THOMAS JOHNSON,
President of the Council.

Attest: J. A. HALDEMAN, Clerk.

AN ACT to punish persons decoying slaves from their masters.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory, If any person shall entice, decoy, or carry away out of this Territory, any slave belonging to another, with intent to deprive the owner thereof of the services of such slave, or with intent to effect or procure the freedom of such slaves, he shall be adjudged guilty of grand larceny, and on conviction thereof shall suffer death.

Sec. 2. If any person shall aid or assist in enticing, decoying, or persuading, or carry away, or sending out of this Territory, any slave belonging to another with intent to procure or effect the freedom of such slave, or with intent to deprive the owner thereof of the services of such slave, he shall be adjudged guilty of grand larceny, and on conviction thereof shall suffer death.

Sec. 3. If any person shall entice, decoy, or carry away out of any State or other Territory of the United States, any slave belonging to another, with intent to procure or effect the freedom of such slave, or to deprive the owner thereof of the services of such slave, and shall bring such slave into this Territory, he shall be adjudged guilty of grand larceny, in the same manner as if such slave had been enticed, decoyed, or carried away out of this Territory; in such case the larceny may be charged to have been committed in any county of this Territory into or through which such slave shall have been brought by such person, and on conviction thereof, the person offending shall suffer death.

An act regulating oaths and prescribing the forms of oaths of office.

Sec. 1. All officers elected or appointed under any existing or subsequently enacted laws of this Territory shall take and subscribe the following oath of office: "I, _____, do solemnly swear, upon the Holy Evangelist of Almighty God, that I will support the Constitution of the United States, and that I will support and sustain the provisions of an act entitled 'An act to organize the Territories of Nebraska and Kansas, and the provisions of the law of the United States commonly known as the 'fugitive slave law,' and faithfully and impartially, and to the best of my ability, demean myself in the discharge of my duties in the office of _____.

So help me God."—*Pamphlet Laws*, p. 516.

One of the provisions of an act to regulate elections.

Provided further, That if any person offering to vote shall be challenged and required to take an oath or affirmation, to be administered by one of the judges of the election, that he will sustain the provisions of the above-recited acts of Congress, (i. e., the fugitive slave laws of 1793 and 1850, and of the act entitled "An act to organize the Territories of Nebraska and Kansas," approved May 33, 1854,) and shall refuse to take such oath or affirmation, THE VOTE OF SUCH PERSON SHALL BE REJECTED.—*Pamphlet Laws*, p. 332.

Section 3 of an act concerning attorneys at law,

Provides that "every person obtaining a license shall take an oath or affirmation to support the Constitution of the United States, and to support and sustain the provisions of an act entitled 'An act to organize the Territories of Nebraska and Kansas,' and the provisions of an act commonly known as 'the fugitive slave law,' and faithfully to demean himself in his practice, to the best of his knowledge and ability."—*Pamphlet Laws*, p. 132.